



**THE ATTORNEY GENERAL  
OF TEXAS**

September 28, 1990

**JIM MATTON  
ATTORNEY GENERAL**

Mr. Robert H. Norris  
Executive Director  
Texas Board of Architectural  
Examiners  
8213 Shoal Creek Blvd., Suite 107  
Austin, Texas 78758-7589

LO-90-67

Dear Mr. Norris:

The Professional Services Procurement Act prohibits governmental entities from procuring the services of certain professionals on the basis of competitive bids. V.T.C.S. art. 664-4. Architects are included within article 664-4. Id. § 3. In Attorney General Opinion M-926 (1971), this office concluded that the legislature intended the term "architect" in article 664-4 to refer to individuals licensed as architects under state law and therefore that individuals licensed only as landscape architects were excluded from article 664-4.

You ask that we reconsider our conclusion in Attorney General Opinion M-926 (1971). In support of your request, you refer to the legislature's merger in 1979 of the Texas State Board of Landscape Architects with the Texas Board of Architectural Examiners. That merger was accomplished by passage of Senate Bill 551, which became effective September 1, 1979. Acts 1979, 66th Leg., ch. 619, at 1384.

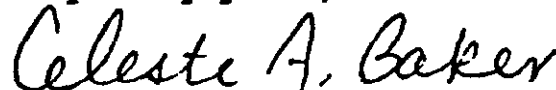
We affirm the conclusion in Attorney General Opinion M-926. Although Senate Bill 551 eliminated the Texas State Board of Landscape Architects and provided for the appointment of licensed landscape architects to the Board of Architectural Examiners, its provisions do not indicate that the legislature intended to treat the practice of landscape architecture as the practice of architecture for purposes of article 664-4. Acts 1979, 66th Leg., ch. 619, at 1384, 1389.

Prior to passage of Senate Bill 551, separate statutes authorized state regulation of the two professions. Article 249a, V.T.C.S., authorizes the regulation of the practice of architecture, while article 249c, V.T.C.S., provided for the regulation of the practice of landscape architecture. These

statutes and their separate regulatory systems continue in effect today. See, e.g., V.T.C.S. art. 249a, § 10(e) (practice of landscape architecture not limited by article 249a); V.T.C.S. art. 249c, § 2(a) (article 249c not applicable to architects). While Senate Bill 551 amended various provisions of both article 249a and 249c, it did not combine the separate statutory requirements for the practice of the two professions. Senate Bill 551 also did not eliminate the separate statutory definitions of architecture and landscape architecture. Acts 1979, 66th Leg., ch. 619. Furthermore, both before and after passage of Senate Bill 551, the definition of landscape architecture in section 1(b) of article 249c expressly excluded any services within the definition of the practice of architecture as defined by state law. Compare Acts 1973, 63rd Leg., ch. 629, § 1, at 1731 (defining landscape architecture to exclude architectural services) with Acts 1979, 66th Leg., ch. 619, § 8, at 1388-89 (reenacting similar language).

In Attorney General Opinion M-926, this office referred to the exclusion of architectural services from the statutory definition of landscape architecture and noted that articles 249a and 249c established separate entry requirements for the two professions. Since state law continues to define the two professions differently and to impose separate legal requirements for the practice of the two professions, the primary reasons for the conclusion in Attorney General Opinion M-926 obtain today. The creation of a single board to oversee the application of separate requirements to separate professions does not alone indicate that the legislature intended the two professions to be treated the same for purposes of article 664-4. Thus, we adhere to the conclusion in Attorney General Opinion M-926.

Very truly yours,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee

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CAB/er

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